IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SEVENTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE BILAL NAZKI

and
THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 18163 of 2004

Between:

M/s.Srinivasa Modern Rice Mill, Korukollu, Kalidindi Mandal, Krishna Dist. rep.by its Managing Partner Sri G.Srirama Raju,

..... PETITIONER

AND

1 The Commercial Tax officer, Machilipatnam, Krishna Dist.
2 The Dist. Manager, Food Corporation of India, Vijayawada

Krishna Dist.
3 The Senior Regional Manager, Food Corporation of India,

Regional officer, Hyderabad.
4 The Appellate Deputy Commissioner (CT) Vijayawada.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ, order or direction particularly one in the nature of writ of Mandamus declaring that the provisions of Section -6C read with clause-(i) of Entry-19 of the I Schedule to the Andhra Pradesh General sales Tax Act employing the specific expression of packing material that is to say used in clause-(i) as not applicable to gunny bag purchased on payment of tax locally and sold in the state to the food corporation of India or others in the assessment year 2001-2002 as evident form assessment order and therefore declaring the assessment and levy of tax under the Act in the assessment order and appellate orders dt. 27-03-2003 and 14-08-2003 respectively as without jurisdiction, without authority of law and contrary to section, -6C of the Act as well as the judgment of the Hon'ble Supreme court in 74 STC P 379 or alternately directing the 2nd respondent to directly remit the sales tax component in terms of assessment orders for the above mentioned assessment

years in respect of the sale of gunnies made to it directly to the 1st respondent in the event of the petitioners claim for exemption from tax on subsequent sale of gunnies being rejected, in terms of G.O.R.T.No.9 dated 12-05-2002 issued by the Government of Andhra Pradesh and grant such other relief or relief's as are deemed fit and proper in the circumstances of the case.

Counsel for the Petitioner:MR.B.A.PADMANABHA RAO

Counsel for the Respondent No.: GP FOR COMMERCIAL TAXES

The Court at the admission stage made the following :

O R D E R (Per the Hon'ble Sri Justice Bilal Nazki):

The assessment orders dated 27-03-2003 and 14-08-2003 have been challenged in this writ petition. The orders are appealable and we do not find any ground to interfere when an alternative efficacious remedy is available to the petitioner.

The writ petition is accordingly dismissed with a liberty to the petitioner to seek the alternative remedy, if so advised. No order as to costs.

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(BILAL NAZKI, J)

7th October, 2004.

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(S.ANANDA REDDY, J)

vrn

To

1 The Commercial Tax officer, Machilipatnam, Krishna Dist.
2 The Dist. Manager, Food Corporation of India, Vijayawada

Krishna Dist.
3 The Senior Regional Manager, Food Corporation of India,

Regional officer, Hyderabad.
4 The Appellate Deputy Commissioner (CT) Vijayawada.

5 Two C.Cs to the Government Pleader for Commercial Taxes,

High Court of A.P, Hyderabad (OUT)

6 Two C.D copies